

Congress of the United States

Washington, DC 20515

March 19, 2003

The Honorable George W. Bush
President
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

We are deeply disturbed by the scope and breadth of recent initiatives undertaken by your Administration to transform national forest policy through proposed changes to implementing the National Forest Management Act (NFMA), the National Environmental Policy Act (NEPA), and the Appeals Reform Act. While each of these proposals in its own right radically alters longstanding and well-tested forest management policies, their cumulative effect is to undermine or eliminate open-decision-making, accountability, resource protection, and opportunities for public involvement and scientific input.

On November 27, 2002, your Administration proposed an NFMA planning rule that renders the public planning process virtually meaningless. It ignores the past advice of the Committee of Scientists, appointed by the Secretary of Agriculture, whose input has been sought and considered by the Forest Service ever since the rule was adopted in 1979. It attempts to eliminate any assurance of fish and wildlife protection and requirements for monitoring population and habitat trends. It provides less protection and evaluation of inventoried roadless areas. It presumes every area is suitable for every multiple use, thereby skewing the planning process to favor commodity development and continued off-road vehicle use. It seeks to render plan standards more discretionary, further reducing agency accountability. By relegating management direction to the Forest Service Manual or handbooks, the proposed rule precludes judicial review of agency plans and diminishes opportunities for public comment on and availability of documents, further obfuscating what guides the agency on forest planning.

Moreover, the proposed planning rule significantly reduces opportunities for citizen input throughout the planning process by categorically excluding most forest plans from the

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environmental impact studies (EIS) that NEPA requires for all major federal actions with significant environmental effects. Without an EIS process, the public will only be allowed to comment on the one alternative the agency proposes, and environmental effects will never be analyzed. Similarly, the proposal provides no opportunity for administrative appeals of final forest plans, and allows plan amendments for up to four years with no public notice.

With NEPA documentation eliminated from forest planning, the agency asserts that it will undertake in-depth environmental studies when site-specific projects are proposed. However, the breadth of categories that you have proposed to be excluded from full NEPA analysis and appeals renders this claim implausible at best. On December 16, 2002, your Administration proposed to expand categorical exclusions (CEs) to include hazardous fuels reduction and post-fire rehabilitation projects. According to Council on Environmental Quality (CEQ) regulations, a CE means "a category of actions which do not individually or cumulatively have a significant effect on the human environment..." 40 C.F.R. 1508.4. These proposed categories have few, if any, meaningful safeguards. For example, the CE projects must be "consistent" with local forest plans. Yet, under the proposed NFMA regulations, forest plans could be amended simply by changing the plan on an interim basis with no public notice.

Most significantly, the proposed CE fuels reduction projects have no size or type constraints. Accordingly, large-scale, intensive projects may take place virtually anywhere in the national forest system (except designated wilderness areas) regardless of forest type, and may involve an unlimited number of board feet regardless of diameter limit—all with minimal public review and no environmental study. Without any justification other than reliance on a vague and unscientific "data call," the agency concludes in its proposal that these projects will have no significant environmental impacts. That the agency could make a global finding of no significant environmental impacts of countless individual and multiple hazardous fuels projects, some of which may involve road construction and occur in roadless areas and other sensitive areas, is quite disturbing.

Indeed, a recently proposed timber and salvage sale CE contradicts the findings in the hazardous fuels CE. In that CE proposal, the agency sets acreage limits of 50 and 250 for green and salvage sales respectively. Given the scant substantiation for those figures, those sideboards themselves are arbitrary and thus of questionable merit. Yet merely by deeming a timber or salvage sale a hazardous fuels reduction project, the agency could circumvent its own proposed CE acreage limits. In effect, the many proposed and already finalized changes to CEs, (such as the August 23, 2002 extraordinary circumstances final rule), would allow for unlimited logging with no environmental analysis, no opportunity to appeal, and inadequate opportunity for public comment.

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Equally sweeping and egregious are proposed changes to the Appeals Reform Act regulations. In 1992, Congress gave citizens a statutory right of appeal when the Forest Service proposed to eliminate appeals on timber sales and other projects. Although billed as part of the Healthy Forest Initiative, proposed changes to the appeals regulation significantly curtail rights to appeal a broad range of timber sales and land management decisions, not just those pertaining to fire risk. These changes include removing the stay of implementation of projects during an appeal under an expanded definition of "emergency situation" that would encompass salvage sales. Appeals without stays are meaningless.

The proposed changes also limit appealable issues to those raised during initial comments, a patently unjust prohibition if changes are made to the proposed action. The changes also give the agency broad discretion to consider only comments it considers "substantive" and to deny standing to those who submitted the comments. In effect, these provisions penalize citizens who do not use the appropriate vocabulary or have the technical expertise to comment on land management decisions, and exclude them from the process. Finally, merely by having the Secretary or Undersecretary sign decision documents, the proposed changes also allow the agency to evade the appeals process. These are the same tactics for which the Federal District Court in Montana on January 7, 2002 rebuked the government as an illegal circumvention of the Appeals Reform Act.

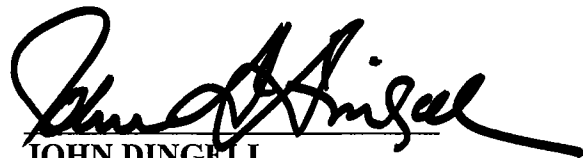
The cumulative effect of these proposals is a radical rewrite of national forest policy to the detriment of the public. In the name of "healthy forests" and "streamlining," your Administration has proposed far-reaching and unjustified policy changes that deviate from the letter and spirit of laws governing forest management to create an opaque system marked by unbridled agency discretion to log our forests. By undercutting public accountability and scientific input for forest management, the assault on these laws will foment more controversy, stimulate more distrust of the Forest Service, and catalyze a new round of litigation that is likely to persist for years.

Mr. President, along with many Americans who treasure our national forests and respect the public's role in forest management, we urge you to withdraw these ill-advised and controversial proposals.

Sincerely,



NICK J. RAHALL, II



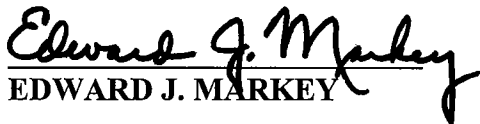
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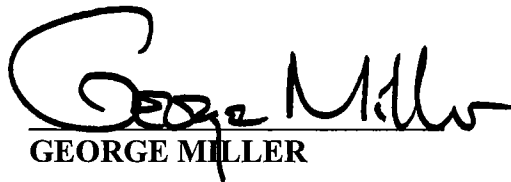
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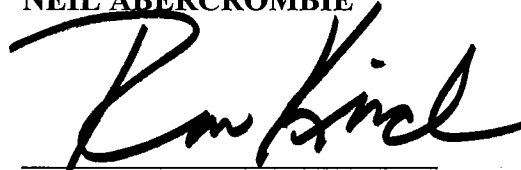
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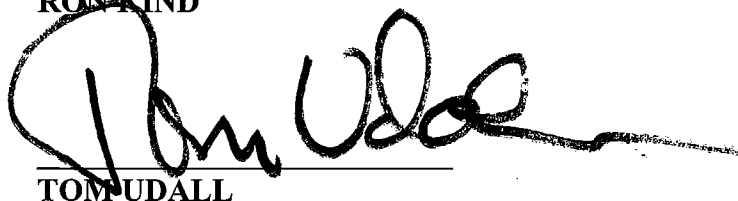
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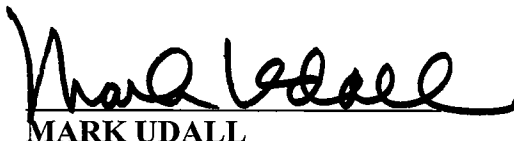
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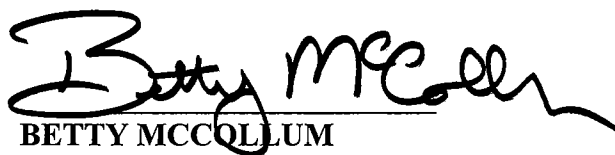
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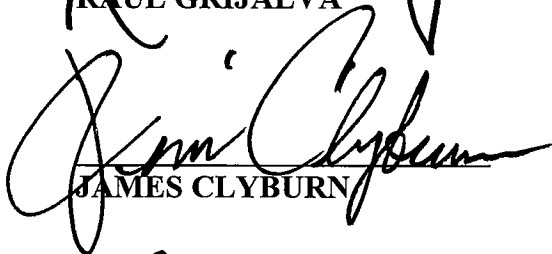
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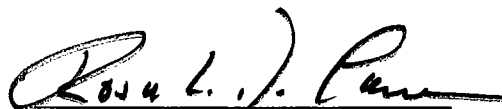
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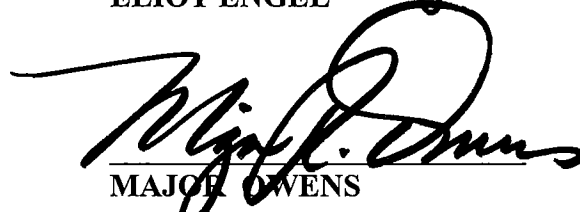

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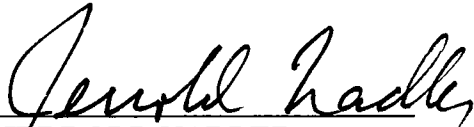

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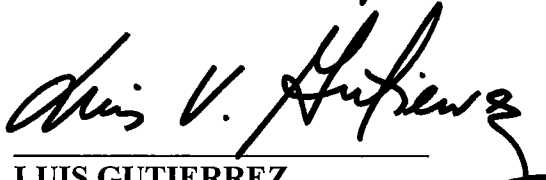

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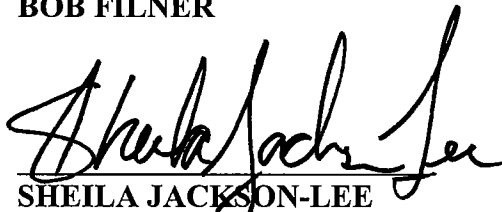

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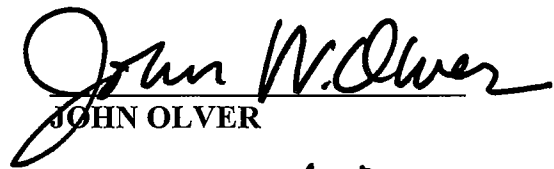

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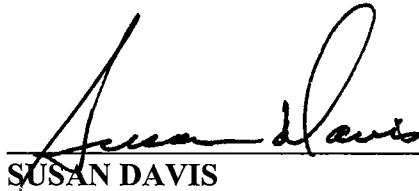

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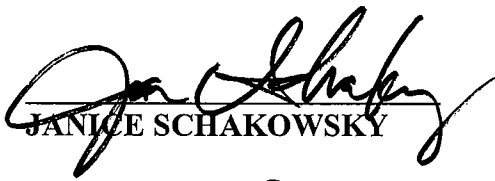
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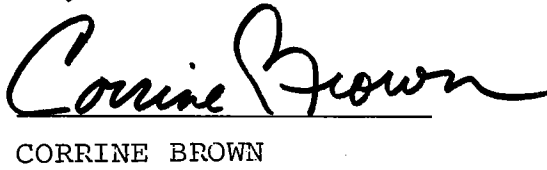
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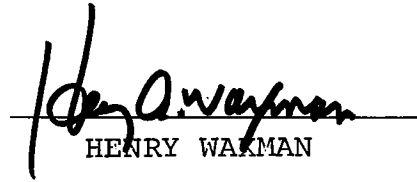
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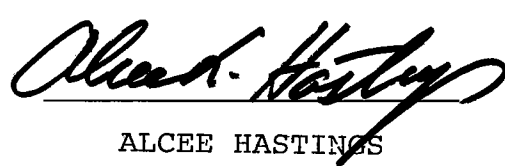

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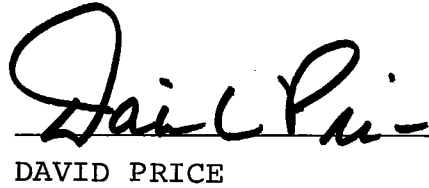

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